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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

9 ***

10 JOSEPH LOMAGLIO, an individual,

11 Plaintiff,

12 vs.

13 STATE FARM MUTUAL AUTOMOBILE
14 INSURANCE COMPANY, a foreign
15 corporation; DOES I through X; and ROE
16 CORPORATIONS I through X, inclusive,

17 Defendants.

CASE NO.: 2:21-cv-00328-KJD-EJY

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

[SEVENTH REQUEST]

18 Pursuant to LR 6-1 and LR 26-3, the parties, by and through their respective counsel of
19 record, hereby stipulate and request that this Court extend discovery in the above-captioned case by
20 ninety (90) days, up to and including Wednesday, August 9, 2023. In addition, the parties request
21 that all other future deadlines contemplated by the Discovery Plan and Scheduling Order be
22 extended pursuant to Local Rule. In support of this Stipulation and Request, the parties state as
23 follows:

- 24 1. On January 19, 2021, Plaintiff filed his Complaint in the Eight Judicial District
25 Court.
- 26 2. On February 26, 2021, Defendant removed the case to Federal Court.
- 27 3. On March 5, 2021, Defendant filed its Answer to Complaint.
- 28 4. On March 18, 2021, the parties conducted an initial FRCP 26(f) conference.

5. On March 29, 2021, Plaintiff filed his Motion to Remand.
6. On March 31, 2021, Plaintiff served his FRCP 26 Initial Disclosures on Defendant.
7. On April 5, 2021, The Court entered the Discovery Plan and Scheduling Order.
8. On April 9, 2021, Defendant filed its Opposition to Motion to Remand.
9. On April 23, 2021, Plaintiff filed his Reply in Support of Motion to Remand.
10. On April 28, 2021, 2020, Defendant served its FRCP 26 Initial Disclosures on Plaintiff.
11. On July 1, 2021, Plaintiff served his first set of interrogatories and production requests on Defendant. Defendant served its responses on September 2, 2021.
12. On September 7, 2021, Defendant served its First Supplement to FRCP 26 Initial Disclosures on Plaintiff.
13. On October 11, 2021, Plaintiff served his first set of admissions requests and second set of production requests on Defendant.
14. On October 14, 2021, Defendant served its Second Supplement to FRCP 26 Initial Disclosures on Plaintiff.
15. On November 30, 2021, Plaintiff served his First Supplement to FRCP 26 Initial Disclosures on Plaintiff.
16. Also on November 30, 2021, Plaintiff served his discovery responses.
17. On December 7, 2021, Defendant served its discovery responses.
18. On February 24, 2022, Defendant served its Third Supplement to FRCP 26 Initial Disclosures on Plaintiff.
19. On March 14, 2022, Defendant produced the third-party claim file identified in its Third Supplement to its FRCP 26 Initial Disclosures.
20. On March 14, 2022, the Court entered its Order Denying Plaintiff's Motion to Remand.
21. The parties have served their respective initial and rebuttal expert discovery.
22. Plaintiff deposed State Farm Claim Specialist Tyce Gummow on October 27, 2022.
23. Plaintiff served his third set of written discovery on Defendant State Farm on

1 November 30, 2022.

- 2 24. Plaintiff took the deposition of State Farm representative Erick Bayer on February
3 6, 2023.
- 4 25. Plaintiff will take the deposition of Defendant's expert Edward J. McKinnon on
5 May 11, 2023.
- 6 26. Defendant will take the deposition of Plaintiff's expert Scott Glogovac in May,
7 2023.
- 8 27. Plaintiff served notice to take the deposition of State Farm representative David
9 Fletcher on April 27, 2023.
- 10 28. On April 17, 2023, Plaintiff served Notice of Taking the 30(b)(6) deposition of
11 State Farm on a date to be determined by the Parties.
- 12 29. Defendant State Farm will produce its Fourth Supplemental Document Production
13 within the next two weeks.

14 **DISCOVERY REMAINING**

- 15 1. The parties will continue participating in written discovery.
- 16 2. Defendant State Farm will depose Plaintiff Joseph Lomaglio at a time convenient
17 to the parties before the close of discovery.
- 18 3. Plaintiff will depose State Farm Team Manager David Fletcher at a time
19 convenient to the parties before the close of discovery.
- 20 4. Plaintiff will depose Defendant's FRCP 30(b)(6) witness(es) as soon as it can
21 reasonably be accomplished considering the breadth of the notice.
- 22 5. The parties may depose any and all other witnesses identified through discovery.
- 23 6. The parties will serve supplements to their expert witnesses' reports and may
24 conduct depositions of those expert witnesses.

25 **WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

26 The parties aver, pursuant to Local Rule 26-3, that good cause exists for the requested
27 extension. This Request for an extension of time is not sought for to delay the proceedings or for
28 any improper purpose. Rather, the parties seek this extension solely to allow sufficient time to

1 conduct discovery. This is a complicated case involving claims of insurance bad faith and unfair
 2 claims practices. Discovery has been document intensive, including the request for and production
 3 of thousands of pages of confidential institutional documents and other information. Specifically,
 4 on November 30, 2022, Plaintiff served written discovery requesting information and documents
 5 regarding State Farm's adoption, establishment, and implementation of the "3PET Injury Report"
 6 and the influence this program had on adjusters assigned to handle a claimant's first-party and third-
 7 party bodily injury claims, which Plaintiff learned about through earlier discovery. On December
 8 20, 2022, State Farm's counsel requested a 30-day extension, up to and including January 30, 2023,
 9 to respond to Plaintiff's written discovery. Plaintiff's counsel consented to the extension request.
 10 On February 2, 2023, State Farm served its responses to Plaintiff's written discovery requests.
 11 Through multiple meet and confer efforts, via telephone, that spanned several weeks, the parties
 12 were able to resolve certain outstanding discovery disputes. Specifically, State Farm agreed to
 13 supplement documents responsive to Plaintiff's "3PET Injury Report" written discovery. The
 14 document production is expected to be over 10,000 pages. At the same time, undersigned counsel
 15 are currently litigating three other cases with the same or substantially similar claims and defenses
 16 and the same discovery issues and plans.

17 Plaintiff recently served a FRCP 30(b)(6) deposition notice including more than 100 separate
 18 topics, mostly seeking information that will foreseeably require further discussion of counsel aimed
 19 at avoiding unnecessary discovery litigation. Plaintiff recently served this FRCP 30(b)(6) deposition
 20 notice in anticipation of State Farm's pending document production regarding the "3PET Injury
 21 Report." These documents will ensure Plaintiff is able to explore all relevant areas of inquiry not
 22 only with State Farm's claims personnel, but also its FRCP 30(b)(6) witness.

23 In addition, Plaintiff's undersigned counsel, Mr. Strong, recently spent several weeks out of
 24 the office due to the early birth of his baby on March 22, 2023, which was the same date that Mr.
 25 Lomaglio's deposition was scheduled to occur.

26 As always, the parties anticipate future discussions regarding alternative dispute resolution
 27 following these depositions. A ninety (90) day extension of the discovery deadlines will allow the
 28 parties to coordinate and prepare for the mediation. For those reasons, the parties respectfully

1 request a brief extension of the discovery deadlines in this matter.

2 Extension or Modification of The Discovery Plan and Scheduling Order. LR 26-3 governs
 3 modifications or extension of the Discovery Plan and Scheduling Order. Any stipulation or motion
 4 to extend or modify that Discovery Plan and Scheduling Order must be made no later than twenty-
 5 one (21) days before the expiration of the subject deadline and must comply fully with LR 26-3.

6 This is the seventh request for extension of time in this matter. The parties respectfully
 7 submit that the reasons set forth above constitute compelling reasons for the short extension.

8 The following is a list of the current discovery deadlines and the parties' proposed extended
 9 deadlines:

Scheduled Event	Current Deadline	Proposed New Deadline
Discovery Cut-off	Monday, May 15, 2023	Wednesday, August 9, 2023
Deadline to Amend Pleadings or Add Parties	<i>Closed</i>	<i>Closed</i>
Expert Disclosure pursuant to FRCP26 (a)(2)	<i>Closed</i>	<i>Closed</i>
Rebuttal Expert Disclosure pursuant to FRCP. 26(a)(2)	<i>Closed</i>	<i>Closed</i>
Dispositive Motions	<i>Tuesday, June 13, 2022</i>	<i>Monday, September 11, 2022</i>
Joint Pretrial Order	<i>Thursday, July 13, 2023.</i>	<i>Wednesday, October 11, 2023</i> <i>If dispositive motions are pending, the parties will submit their Joint Pretrial Order within thirty (30) days of the Court's order as to any dispositive motions.</i>

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1 WHEREFORE, the parties respectfully request this Court extend the discovery period by
2 ninety (90) days from the current deadline of May 15, 2023 up to and including August 9, 2023, and
3 extend the other dates as outlined in accordance with the table above.

4 Dated this 21st day of April 2023.

Dated this 21st day of April 2023.

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

PRINCE LAW GROUP

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35 **ORDER**

36 IT IS SO ORDERED.

37 Dated this 21st day of April, 2023.

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40 U.S. MAGISTRATE JUDGE